

85th Legislative Session – 2010

Committee: Joint Appropriations

Thursday, February 11, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Ahlers
P Burg
P Bartling
E Dennert
P Hundstad
P Wismer
P Novstrup (Al)
P Brown
P Carson
P Deadrick
P Peters
P Wink
P Haverly
P Putnam
P Hunhoff (Jean), Chair
P Tidemann, Vice-Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Jean Hunhoff.

Bureau of Personnel

South Dakota Risk Pool

Ms. Sandra Zinter, Commissioner of the Bureau of Personnel (BOP); **Ms. Jill Kruger**, Manager of the Risk Pool; and **Mr. Randy Moses**, Assistant Director of the Division of Insurance; provided an update on the South Dakota Risk Pool. Distributed was a copy of the South Dakota Risk Pool annual report. (**Document #1**)

The South Dakota Risk Pool has been operational since July 28, 2003. It established the methodology to allocate the risk and cost to Risk Pool enrollees, the state, insurance carriers, insurance producers, medical providers, facilities, and pharmacists.

The Risk Pool is providing coverage to those individuals who lost their creditable coverage through no fault of their own and make application to the Risk Pool within sixty-three days of losing coverage. As of July 1, 2009, legislation allows uninsurable children to join the Risk Pool (SB 109).

There were 632 members in the Risk Pool at the end of FY09. There have been 1,079 members who have discontinued Risk Pool coverage since the inception; primarily due to enrollees obtaining creditable coverage through another source.

As of June 30, 2009, the member population of the Risk Pool consisted of 312 males and 320 women, with 9.5% being tobacco users. Approximately 62% of the Risk Pool enrollees are age 50 or older. Ms. Kruger stated that one child has enrolled in the program due to eligibility requirements.

Ms. Kruger stated that the funding for FY09 is comprised of:

- Enrollees paying a higher than average premium and contributed just over \$4.4 million;
- The state appropriates \$710,475 in general funds;
- The insurance carriers pay an annual assessment which totals \$810,193;
- Medical providers except reduced reimbursement rates based on Medicaid rates (135% of Medicaid) and contributed \$1.1 million by the physician group and \$2.1 million by the hospitals;
- Insurance agents agree to a lower than normal commission of 3% on policies placed with the risk pool; and
- A federal grant of \$724,609.

House Bill 1043 addresses the risk pool rate methodology, revises the number of risk pool benefit plans offered, and revises open enrollment for uninsurable children. Ms. Kruger stated, in response to a question posed by Senator Hunhoff, that the department does not anticipate a fiscal impact from the changes.

In response to Senator Hunhoff's questions, Commissioner Zinter stated the state health plan uses three year contracts, and this fiscal year is the third year of the contract. The department has negotiated a better contract for the case management company; which results in a savings to the state.

Representative Deadrick asked about the changes. Commissioner Zinter said that the department would like to have an equal split of funding from all three sources, but the providers have been

contributing a greater portion and accepting less in the bill charges for their services. The state has increased the general fund contribution from \$500,000 to \$1.5 million. The insurance companies pay \$0.25 per member per month of the covered lives for the preceding calendar year, which was increased by \$0.10 last legislative session. The increase is about a 30% increase; which will generate more money and increase the level of participation.

Bureau of Personnel Budget

For FY11, the Governor recommends a total appropriation of \$15,610,597 and 70.5 FTEs for the Bureau of Personnel. This dollar amount consists of \$970,949 from the general fund, \$500,000 from federal sources, and \$14,139,648 from other funds. The Governor's recommendation is an increase from FY10 in general funds of \$1,848 and a decrease in other funds of \$1,465. The recommendation is a decrease of 1.0 FTE from FY10.

Distributed was a PowerPoint presentation outlining the department's FY11 budget request. **(Document #2)**

Commissioner Zinter explained the department's priorities. They include:

- Talent Acquisition – Provide agencies with the resources needed to attract and hire the best talent available;
- Talent Retention – Provide agencies with the tools and information needed to retain mission-critical talent; and
- Talent Management – Help agencies develop and effectively use talent to maximize employee performance and increase agency efficiency and productivity.

Senator Hunhoff asked about the hiring freeze. Commissioner Zinter stated that the hiring freeze has resulted from the current economic crisis. Agencies must now provide justification as to why the position needs to be filled prior to the announcement of the vacancy. The agencies were requested to only send requests to fill critical vacancies. This procedure began after Thanksgiving in 2009.

Three main services the BOP provides to the rest of state government include: classification and training, compensation and agency support, and employee benefits.

Commissioner Zinter stated that the state needs to have consistency in how positions are classified and paid; and therefore they are centralized within the BOP. Individual jobs are grouped into classes based on similar work. Class specifications are created for each class which are used to assign appropriate pay grades. The classification of the job is independent of the person in the position, salary, or length of service, but based on the work assigned, authority, complexity, and accountability.

Senator Hunhoff asked about reclassifications. Commissioner Zinter responded that a job is not reclassified because the person takes on additional duties. The position will only be reclassified if the duties assigned are at a higher level of work than the current job classification.

In response to Senator Brown's question, Commissioner Zinter stated that about 100 reclassifications occur annually. She noted that there are different types of reclassifications where an individual person or an entire group may be reclassified. Generally, a request for reclassification comes from a cabinet secretary.

Commissioner Zinter stated, in response to Representative Tidemann's question that the BOP is minimally involved with the Board of Regents' reclassification of employees. The BOP helps with the determination of classifications for the career service employees; otherwise the BOP is not involved.

Commissioner Zinter stated that there are several issues that affect the ability to recruit and obtain employees. Currently, the average age of an employee in the executive branch is 44.4 years. There is potential serious loss of talent and efficiencies because 32.3% of the workforce is eligible to retire within the next 10 years.

The state is experiencing difficulty in filling critical occupations, such as nurses, engineers, scientists, IT specialists, accountants, and auditors. Commissioner Zinter noted that many people don't know about the wide-range of jobs and careers available in state government.

Ms. Sandy Jorgensen, Director of the Division of Compensation, provided an update on the recruitment pilot projects. The BOP has been working on the career banding project for the last two years. This project used subject matter experts in positions to identify and define all level of work in their specific position area. The areas addressed include: nature of work; knowledge, skills, and experience; performance criteria; and competencies. Once determined, then another group of employees in the specific position area matched the employee position to the level of work defined. The career banding project places employees into career levels based on the nature of work performed.

The goal of a new compensation structure will be to respond to market conditions for the given occupation. A Performance Management system will be designed specifically for each individual occupation to maximize performance.

Ms. Jorgensen informed the committee that all the career family classifications have been defined. The compensation for the new career banding project is on hold until funds are available. The type funds that need to be available is based on how each employee is paid.

In response to Representative Putnam's questions, Commissioner Zinter stated that the career banding project would occur in a normal year when a salary policy increase occurs. The people using the career banding project would use a different methodology to determine the increase. The BOP wants to place groups into the career banding program and be prepared for the program. She hopes the project can be used next year.

In response to committee discussion about desk audit reclassifications, Commissioner Zinter stated that the BOP performs the desk audits and position classifications. The positions will be classified based on the work need, and not the person's level of expertise. If an agency secretary requests a change in classification, the BOP would need to approve the change, send a class action notice of approval to the agency, and change the classification on the payroll system.

Representative Wismer requested the department provide the number positions the state is short for the critical occupations and the total amount needed to have the positions at market value.

Commissioner Zinter said that the South Dakota state employee health plan is a self-funded plan that provides coverage for full-time employees, part-time employees, retired employees, COBRA, and dependents. Currently, the state has 24,860 members. The membership continues to grow older, with an average age of 46.37 for employees in 2009. The plan dependents lower the average age to 35.12.

Page 11 of Document #2 is the state health plan full accrual financial statement. Commissioner Zinter reminded the committee that the plan had a major change in FY09 by the addition of the \$300 deductible plan. At the time, the BOP was uncertain how the new deductible plan would change the entire health plan. The result was an overrecovery of \$3,229,605. The overrecovery was carried forward to FY10 and allowed for no increase to the plan in FY10. She noted that the BOP is on target with revenues and expenses for FY10 and should end the fiscal year close to break even.

Senator Novstrup asked about the state allowing local government entities to use the state health plan. Commissioner Zinter stated that the plan is based on a contribution by the employer of \$5,072 per employee for FY10. If the plan changed and included local entities, it would need to include all local governmental agencies. She noted that the biggest concern is that there are federal rules and requirements that list the allowable costs, which includes health insurance. The state needs to prove that all employees are treated equally. If the local entities are added to the state health plan, the state may lose the federal funding – over 20% of the state health insurance cost.

Commissioner Zinter said, in response to Representative Carson's question, that a retired employee can remain on the state health insurance plan until age 65 if the premium is paid. At age 65, the retiree can be on Medicare.

To save money, the BOP is taking administrative actions for FY11. Some of the actions include:

- Pharmacy vendor negotiations;
- Competitive bid process for vendors;
- Focus on Wellness Programs; and
- Utilization review and case management.

Some of the major plan modifications for FY11 include:

- Chiropractic copay increase from \$20 to \$35;
- Office visit copay increase from \$30 to \$35/\$40 to \$45;
- Inpatient copay increase from \$550 to \$600;
- Out-patient copay increase from \$450 to \$500; and
- Pharmacy increases.

For FY11, the BOP requests \$4,688,621, comprised of \$1,880,186 in general funds, \$1,016,399 in federal fund authority, and \$1,772,036 in other fund authority.

Commissioner Zinter reminded the committee that the FY10 rate per employee remained the same as in FY09 at \$5,773. The proposed rate for FY11 is \$6,135; an increase of \$362 per employee.

Page 17 of Document #2 is a regional comparison of the FY10 annual contribution per employee. Commissioner Zinter noted that South Dakota has the lowest annual contribution per employee in the region.

In response to Representative Wismer's question, Commissioner Zinter stated that without adding the increase contribution per employee, a \$10.6 million gap would exist. The BOP was able to fund the gap for the state health plan with \$3 million from administration changes, \$3 million with the change to the employee as use the plan, and the balance is the employer portion of the state health plan of which \$1.8 million is general funds.

Representative Wismer requested a breakout show the average salary for exempt employees and career service employees.

Department of Revenue and Regulation

Secretary Paul Kinsman and Joan Serfling, Director of Administrative Services met with the Committee to discuss the FY11 budget request. Document No. 3 was distributed.

For FY11, the Governor recommends a decrease of \$1,066,357 from all funds and a decrease of 4.0 FTEs from FY10. The FY11 recommended budget consists of \$1,142,611 from general funds

and \$69,115,989 in other fund expenditure authority, for a total budget of \$70,258,509 and 322.1 FTEs.

Department's FY10 Highest Priorities

- The valuation of agricultural land.
- Moving forward with the Streamlined Sales Tax Project.
- Educating the tax payer.
- Making computer systems more efficient.

Major Expansions and Reductions**Business Tax:**

- A decrease in Personal Services of \$27,910 in other fund expenditure authority and 1.0 FTE due to an unutilized FTE.

Motor Vehicles:

- A decrease in Supplies and Materials of \$1,150,000 in other fund expenditure authority due to the portion of the FY10 budget increase that does not need to be retained in FY11 for the 2011 license plate issuance. The estimated cost for the 2011 license plate issuance during FY11 will be \$1,055,540.

Banking:

- A decrease in Capital Outlay of \$11,491 in other fund expenditure authority due to a reduction in the office furniture and fixtures budget in FY11.

Insurance Fraud-Informational:

- A decrease in Personal Services of \$56,241 in other fund expenditure authority and 1.0 FTE due to an unutilized FTE.

Video Lottery:

- A decrease in Personal Services of \$33,674 in other fund expenditure authority and 1.0 FTE due to an unutilized FTE.

Real Estate Commission:

- An increase in Personal Services of \$17,700 in other fund expenditure authority to get the personal services budget in line with actual expenditures for 5.0 FTE and a five (5) member commission.
- An increase of \$19,350 in other fund expenditure authority to reflect actual travel costs of real estate employees and commissioners.
- An increase in Contractual Services of \$99,700 in other fund expenditure authority primarily due to additional educational opportunities offered to members and to provide funds to develop on-line services to real estate licensees.
- An increase in Capital Outlay of \$2,000 in other fund expenditure authority for computer hardware and software.

Commission on Gaming-Informational:

- A decrease in Personal Services of \$40,534 in other fund expenditure authority and 1.0 FTE due to an unutilized FTE.

State Health Insurance Plan:

- An increase of \$114,743 (\$5,883 general funds, \$108,860 other funds) for the employer paid portion of the state health insurance plan.

Senator Hunhoff asked for additional information on the \$99,700 increase in contractual services. Secretary Kinsman said the increase was costs for education and training for the instructor development courses which is a new requirement. In addition, \$50,000 of that amount is for development of on-line services for real estate licensees. Secretary Kinsman will follow-up on this issue and notify the Committee. Secretary Kinsman said the department is requesting authority to go ahead and implement the computer program that would assist real estate licensees in their continuing education needs. The \$50,000 cost will be covered by real estate fees.

Secretary Kinsman explained that the reduction of \$1,150,000 in supplies and materials was the authority needed in FY10 for the 2011 license plate issue.

Representative Burg asked about the department's responsibility regarding the new regulations on assessing ag land and will the department see a reduction in contractual services as a result of the new regulations. Secretary Kinsman said it was doubtful there would be a reduction in contractual services. SDSU gathers data on cash rents and commodities and that data is utilized each year to value ag land. Ms. Serfling said the cost of this study was never in the department's budget. It was handled with one-time money. The contract carryover expires June 30, 2010 and currently has an estimated \$80,000 fund balance. Estimates for ongoing contract costs are \$60,000/year. Representative Burg asked if the department would be asking for funds next year to cover this contract. Secretary Kinsman said yes. The carryover fund could cover the bill, depending on when the bill is received.

Senator Haverly commented that the SDSU contract needs to be finalized. Mr. Kinsman said the requirements of the program, such as how things are done and what information is to be collected, are still being developed. Once SDSU has a template on what they are looking for, the cost may go down some; however, there is no commitment from SDSU. Senator Haverly asked Secretary Kinsman to report back to the Committee on the contract specifics. Secretary Kinsman reminded the Committee that the contract will be ongoing.

In response to Representative Burg's question, Secretary Kinsman said the department no longer contracts with Agriculture Statistic Services. SDSU gathers additional information from that collected by Agriculture Statistic Services.

Priorities:

Streamlined Sales Tax – Secretary Kinsman told the Committee South Dakota has participated in the Streamlined Sales Tax project since 2000 and became one of the first full member states in 2005. Both Legislators and department staff are in leadership roles on this important project. As

of December 31, 2009 South Dakota had 1,201 streamlined registrations. Streamlined registrants are deposited into the tax relief fund and from October 2005 through December 2009 state tax collections from voluntary sellers totaled \$4,402,707. Secretary Kinsman said the department is struggling with vendor compensation between the internet and brick/mortar vendors.

Valuation of Ag Land – The new system for determining the value of agricultural land is not in place and the first assessment notices will go out in March 2010.

Education – The department places a high priority on the education of licensees and taxpayers. Classes, workshops and seminars are available in all areas the department administers and regulates. In FY09, 32 seminars and workshops were held regarding sales, use and contractor's excise taxes. In addition, the Real Estate Commission held seminars in 6 locations across the state. From 700-850 licensees attend these seminars. During 2009 Property Tax staff developed presentations specific to the new process for valuing ag land with over 960 people attending these meetings.

In response to Representative Putnam's question, Secretary Kinsman said the state no longer contracts for alcohol or tobacco stings; that activity is handled by local law enforcement. When a business fails an alcohol sales sting, the department is notified and becomes involved from a regulatory standpoint. Secretary Kinsman said statute provides a specific penalty for the first failure, a second failure, for failing to train employees, and two or more failures within a certain period of time, etc. The license holder sends information to the department regarding the failure and Secretary Kinsman issues an order regarding the penalty or fine. The license holder can appeal the order through the administrative hearing process.

Computer Systems – Secretary Kinsman spoke to recent computer upgrades including the Division of Motor Vehicles system implemented in July of 2008, the Insurance Licensing system implemented in May 2007, and the Tax system implemented in January of 2009. The Division of Banking implemented a new information and technology system for its licensing and regulations areas in March of 2009. Development continues on the International Registration Plan/International Fuel Tax Agreement system with the implementation date of December 2010.

Secretary Kinsman explained that the \$848,000 collected in penalty and interest was for individuals who did not register a new vehicle within 30 days of purchase. This revenue would come with the 3% motor vehicle excise tax and is additional revenue to the Department of Transportation.

Senator Hunhoff asked if the department's legal office interacts with the AG's office. Secretary Kinsman said all department attorneys are designated as an Assistant Attorney General.

Representative Wismer asked why the Property Tax Division is funded with General Funds and Audit Division with other funds. Ms. Serfling said a bill passed in 1994 set up the department so

that it was all the same. The Division of Motor Vehicles takes a portion of what they collect for their operating expenses and the decision was to do the same with the collection of sales use and contractor's excise tax. The department does charge the municipalities a fee for collecting city taxes. In addition, part of the Division of Audits is funded by the Motor Vehicle fund because they do audit motor fuel taxes. Ms. Serfling said by law any balance in the sales and use tax fund at the end of the fiscal year is transferred to the General Fund.

Representative Putnam commented on the border issues regarding the cigarette and contractor excise tax. Secretary Kinsman said the department has an employee who does audit wholesalers in conjunction with the Attorney General's office to ensure that all cigarettes sold in South Dakota are stamped by the state of South Dakota. Cross border checking is still going on. Secretary Kinsman reminded the Committee that 3 years ago the Legislature had authorized 5 additional FTE to do audits which have proven to be very beneficial. In FY08 the state received \$15.5 million in audit assessments, \$18.7 million in FY08, and \$10.2 million in FY10 through February 10, 2010.

MOTION: ADJOURN

Moved by: Peters
Second by: Haverly
Action: Prevailed by voice vote.

Barb Bjorneberg and Lisa Shafer
Committee Secretary

Jean M. Hunhoff, Chair